



DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 210325-0069]

RIN 0648-BK45

Sea Turtle Conservation; Shrimp Trawling Requirements

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Final rule; delay of effective date.

SUMMARY: We, the NMFS, are delaying the effective date of a final rule that published on December 20, 2019.

DATES: As of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER], the effective date of the rule amending 50 CFR part 223 that published at 84 FR 70048 on December 20, 2019, is delayed until August 1, 2021.

FOR FURTHER INFORMATION CONTACT: Jennifer Lee, NMFS Southeast Regional Office, telephone: 727-824-5312, or email: jennifer.lee@noaa.gov.

SUPPLEMENTARY INFORMATION: On December 20, 2019, we published a final rule to amend the alternative tow time restriction to require all skimmer trawl vessels 40 feet and greater in length to use turtle excluder devices (TEDs) designed to exclude small sea turtles in their nets, and that rule had an effective date of April 1, 2021 (84 FR 70048). The final rule amends regulations at 50 CFR part 223 under the authority of the Endangered Species Act. The purpose of the final rule is to reduce incidental bycatch and mortality of sea turtles in the southeastern U.S. shrimp fisheries, and to aid in the protection and recovery of listed sea turtle populations. The rule also amends the definition of tow time to better clarify the intent and purpose of tow times to reduce sea

turtle mortality, and it refines additional portions of the TED requirements to avoid potential confusion. We delayed the effectiveness of the final rule until April 1, 2021, to allow for the manufacture of the necessary number of TEDs and for fishers, particularly lower income fishers, to prepare financially for the regulation.

We typically conduct outreach on changes to TED regulations through in-person industry workshops and trade shows, dockside and net shop visits, and enforcement trainings. In our final rule we stated that we would be scheduling and announcing future TED training workshops. We also distributed a Fishery Bulletin to industry representatives, state agency partners, media, and other constituents on the final rule, notifying fishers that we would be conducting numerous workshops and training sessions for skimmer trawl fishers, and that information on these sessions would be posted on our website at: <https://www.fisheries.noaa.gov/southeast/bycatch/turtle-excluder-device-regulations>.

We are now delaying the effective date of the final rule published on December 20, 2019, (84 FR 70048) until August 1, 2021. Safety and travel restrictions due to the COVID-19 pandemic have limited our ability to complete the in-person workshops and training sessions that we had anticipated and communicated to the public. This delay in effective date is necessary to provide us with additional time to conduct our planned outreach and training for fishers through a modified strategy, including but not limited to, virtual training sessions with the public. In addition to generally educating the public on the use of the devices, it will help prepare us for responding to installation and maintenance problems from industry when the regulations go in effect. This will allow fishers to be better prepared for compliance with regulations and reduce the likelihood of potential increased sea turtle deaths caused by widespread use of improperly constructed and/or installed TEDs.

Administrative Procedure Act

The Assistant Administrator for Fisheries (AA) finds that there is good cause to waive the requirements to provide prior notice and opportunity for public comment pursuant to the authority set forth in 5 U.S.C. 553(b)(B), because prior notice and opportunity for public comment on this temporary delay is unnecessary and would be contrary to the public interest. Such procedures are unnecessary because the rule that published at 84 FR 70048 on December 20, 2019, has already been subject to notice and comment, and all that remains is to notify the public of this delay in the effective date of the previously noticed regulations. Providing additional prior notice and opportunity for public comment is contrary to the public interest because there is a need to implement immediately this action to delay the April 1, 2021, effective date of the final rule and to provide notice of the delay to affected fishery participants. Making the requirements effective before fishers are properly educated and trained regarding the devices could lead to improper installation and use, which could lead to greater harm to listed sea turtles. We are temporarily delaying the effective date of the rule (see **DATES** section) to provide us with additional time to promote compliance with the new regulations.

For these same reasons, the AA also finds good cause to waive the 30-day delay in the effectiveness of this action under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 1531 *et seq.*

Dated: March 25, 2021.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs,

National Marine Fisheries Service.